

## **BRIEFING MEMO**

### **Genesis Healthcare of Maine LLC (Farmington Operations LLC) Conversion of 28 RCF beds to 20 SNF/NF beds at Sandy River Center**

**DATE:** March 1, 2021

**TO:** Jeanne M. Lambrew, Commissioner, DHHS

**THROUGH:** William Montejo, Director, Division of Licensing and Certification

**FROM:** Larry Carbonneau, Manager, HealthCare Compliance and Operations  
Richard Lawrence, Senior Health Care Financial Analyst

**SUBJECT:** Certificate of Need for MaineHealth

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**ISSUE ACTIVATED BY:** The referenced proposal requires Certificate of Need (CON) approval as defined in "The Maine Certificate of Need Act of 2002," 22 M.R.S.A. §334-A (1-A) et seq., as amended.

**REGISTERED AFFECTED PARTIES:** None

#### **I. BACKGROUND:**

Sandy River Center is facility located in Farmington and consisting of 62 licensed nursing facility beds and 28 RC beds. Sandy River Center's operating company is Farmington Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine LLC. ("Genesis ME"). On December 5, 2006, Genesis ME was granted a Certificate of Need ("CON") to lease and operate, among other facilities, Sandy River Center. A new license for Sandy River Center was issued to Farmington Operations, LLC on December 29, 2006, effective January 1, 2007. Please refer to Exhibit I-A for an Organization Chart related to Genesis ME and Farmington Operations, LLC.

The purpose of this project is to focus on providing skilled rehab program services in the area. This project will enhance operating efficiencies and improve Sandy River Center's bottom line.

#### **II. PROJECT DESCRIPTION:**

Sandy River Center proposes to convert the 28 RC bed unit to 20 SNF/NF beds resulting in a facility with 82 SNF/NF beds. The conversion of the 28 RC bed unit to 20 SNF/NF beds would not occur until the residents in the 28 RC bed unit have been transferred to other appropriate settings. Please note that Sandy River Center is in conversation with Orchard Park Rehabilitation and Living Center and Edgewood Rehabilitation and Living Center owned and operated by North Country Associates regarding their desire to accept RC residents from Sandy River Center. Both facilities are located in Farmington, allowing residents discharged from Sandy River to stay within their communities.

There will be minimal additional physical plant capital costs required to add 20 SNF/NF beds to Sandy River Center. The facility will reconfigure the 28 RC bed unit to accommodate 20 NF beds. The total estimated cost to make these changes is \$250,000 for furniture and minor renovations, and capital cost would not be subject to Certificate of Need approval given that such costs are below the CON threshold.

There is ample space to add 20 SNF/NF beds, increasing the number of licensed beds to 82 SNF/NF beds, as the facility was originally constructed and licensed with 95 SNF/ NF beds. Currently the Mt Abram unit on the upper level of Sandy River Center contains 14 RC beds and Porter unit on the Garden level contains 14 RC beds. These two units will be converted to 20 SNF/NF with some of the bedrooms becoming private rooms.

### **III. HIGHLIGHTS:**

Letter of Intent dated:	August 26, 2020
Technical Assistance meeting held:	Waived
CON application filed:	October 21, 2020
CON certified as complete:	October 21, 2020
Public Information Meeting Held	Waived
Public Hearing held:	N/A
Preliminary Analysis released:	February 5, 2020
Close of Public Record	March 1, 2020

### **IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS**

No public comments were received following the release of the preliminary analysis.

### **V. CERTIFICATE OF NEED UNIT ANALYSIS**

#### **a) Fit, Willing and Able**

Sandy River Center (dba Farmington Operations LLC), located in Farmington Maine, is currently licensed for 62 NF beds and 28 RCF beds. Sandy River Center plans to convert the 28 RCF beds to 20 NF beds. All RCF residents will be appropriately placed in alternative settings before the conversion will take place. The applicant is hoping to place many of the 28 residents at Orchard Park Rehabilitation and Living Center and Edgewood Rehabilitation and Living Center facilities, also located in Farmington, Maine. CONU utilized the nursing home compare website to look at several performance measures related to Sandy River Center. A summary table is provided below:

Facility	Overall	Health Inspections	Staffing	Quality Ratings
Sandy River Center	4	2	5	5

Nursing Home Compare ([www.medicare.gov/NursingHomeCompare](http://www.medicare.gov/NursingHomeCompare) ) provides details on nursing homes across the country. Nursing Home Compare features a star rating system that gives each facility a rating between 1 and 5 stars for health inspections, staffing and quality of resident care measures. The Centers for Medicare & Medicaid Services also calculates an overall rating. This information is important due to the variation in the quality of care and services each nursing home provides to their residents. This data is updated on a monthly basis.

Facility ratings are determined using these criteria:

- The best 10 percent in each State receive a five-star rating.
- The middle 70 percent of facilities receive a rating of two, three, or four stars, with an equal number (approximately 23.33 percent) in each rating category.
- The worst 20 percent receive a one-star rating.

The above table indicates that Sandy River Center has solid ratings in three of four categories and is in the middle 70 percent of all facilities nationally with regards to health inspections ratings.

The Division of Licensing and Certification, as the State survey agency, investigates all complaints of regulatory violation regarding health care facilities, agencies and services subjected to its licensing and certification authority. The Division then determines if the complaints can be substantiated and initiates whatever action is necessary.

Recertification Survey:

The latest Federal recertification survey was conducted at Sandy River Center from 1/27/2020 through 1/30/2020 for the purpose of conducting the annual Long-Term Care Survey Process. As of 1/30/2020 it was determined that Sandy River Center was in substantial compliance with 42 CFR 483, Subpart B – Requirements for Long Term Care Facilities.

Focused Infection Control/COVID-19 Survey:

On 11/09/2020, an on-site visit was conducted at Sandy River Center for the purpose of a Focused Infection Control/COVID-19 Survey. It was determined that Sandy River Center was in compliance with regulation 483.73(b)(6), also known as E0024, within 42 Code of Federal Regulations Part 483.73 Requirement for long Term Care Facilities Emergency Preparedness.

Survey data for this facility can be accessed at Medicare.gov and is available at CONU.

Sandy River Center is one of 11 facilities operated by Genesis Healthcare in the State of Maine. Due to the COVID-19 pandemic CONU expanded its review to examine survey data for all Genesis facilities operating in Maine. The nursing home compare website provides the following ratings data:

Facility	Overall	Health Inspections	Staffing	Quality Ratings
Cedar Ridge	3	2	4	4
Orono Commons	2	1	4	4
Oak Grove	2	1	5	2
Harbor Hill	2	1	5	3
Windward Gardens	2	2	4	1
Marshwood Center*	N/A	N/A	N/A	N/A
Sedgewood Commons**	1	1	3	1
Springbrook	4	4	4	4
Pine Point	5	3	5	5
River Ridge	5	3	5	5

\* Special focus facility -facility has history of serious quality issues. Facility has been cited for abuse.

\*\* Facility has been cited for abuse.

At CONU's request the applicant submitted the latest survey data for the 10 facilities listed above during the period 12/1/2018 through 12/4/2020. Personnel from the survey/licensing reviewed all data and no survey issues are outstanding.

The Commissioner can rely on data available to the Department regarding the quality of health care provided by the applicant as allowed at M.R.S. 22 §337 (3).

### **Deeming of Standard**

As provided for at 22 M.R.S. § 335 (7)(A), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the requirements of this paragraph are deemed to have been met if the services previously provided in the State by the applicant are consistent with applicable licensing and certification standards.

Sandy River Center has provided SNF/NF services in Maine since 1983 and has been operated by Genesis since January of 1987. The services provided are consistent with applicable licensing and certification standards in the State. The Deeming of Standard provisions apply to this CON

application. Due to the COVID 19 pandemic and recent conditional level deficiencies at Genesis facilities the following condition applies:

**Condition:** No relocation of current RCF residents or admission of new SNF/NF residents will occur until a relocation plan has been approved by management of DHHS Division of Licensing and Certification.

## **b) Economic Feasibility**

### **Financial Feasibility and Staffing**

The applicant provided a pro-forma cost report that represents the change in the provided service level. As stated previously the applicant's intent is to close its current 28 bed residential care unit after properly placing its current residences. This will change the facilities bed complement from 62 SNF/NF and 28 RCF beds to 80 SNF/NF beds. This transaction is taking place so that Sandy River can focus on providing additional SNF/NF services in the Farmington area where these services are needed. Capital expenditures associated with this project are minimal (\$250,000). Existing space vacated by Residential Care residents can be easily modified to meet SNF/NF licensing requirements since this facility was originally built to meet SNF/NF requirements. CONU reviewed the underlying assumptions regarding capital costs, MaineCare utilization and reimbursement rates and found them reasonable. Increased staffing will be required to perform the services required by the occupants of the additional SNF/NF beds. Increases in RN, LPN and CNA positions will be partially offset by decreases in Residential Care personnel. The change in bed complement to add SNF/NF beds as well as the analysis of need located in Section IV of this analysis supports the applicants' assertion that this project is financially feasible and will maintain the financial stability of Sandy River. Due to its focus on SNF/NF services, particularly on sub-acute care, financial performance is projected to improve significantly. Net income is projected to increase from (\$282,129) to \$383,767 in the first full year of operations. Final reimbursement rates associated with this transaction will be computed by DHHS Rate setting and DHHS Division of Audit.

### **MaineCare Neutrality**

This project is subject to MaineCare neutrality. MaineCare neutrality is computed by comparing the utilization of MaineCare resources between Sandy Rivers original 62 SNF/NF and 28 RCF beds and the proposed 82 bed SNF/NF capacity. The increase in MaineCare Utilization is \$36,601. These calculations are based on 95% occupancy. See below for calculations.

Facility	Beds	Days	Occupancy	Utilization	MaineCare Rate	MaineCare Cost
Sandy River (SNF/NF)	62	365	0.95	21499	\$229.99	\$4,944,555
Sandy River (RCF)	28	365	0.95	9709	\$111.22	\$1,079,835
TOTAL						\$6,024,390
Sandy River (SNF/NF)	82	365	0.95	28434	\$213.16	\$6,060,991
Total Increase						\$36,601

This transaction results in an increase in MaineCare utilization, the applicant will use part of the \$220,000 in MaineCare income stream purchased from Ledgeview to achieve MaineCare neutrality. The excess funding of \$183,399 can be utilized for other projects.

### Deeming of Standard

As provided for at 22 M.R.S. § 335 (7)(B), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the applicant is deemed to have fulfilled the requirements of this subparagraph if the services provided in the State by the applicant during the most recent 3-year period are of similar size and scope and are consistent with applicable licensing and certification standards.

Sandy River has been a provider of SNF/NF nursing services in Maine for decades. The operations of the purchased facilities are of similar size and scope and are consistent with applicable licensing and certification standards.

### Changing Laws and Regulations

Certificate of Need Unit staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project.

### c) Public Need

The applicant is proposing to operate an existing nursing home with the addition of 20 SNF/NF beds. In order to confirm a continued public need, CONU analyzed demographic and service use trends in Sandy Rivers service area (Franklin County, Maine). CONU utilized the Older Adults with Physical Disabilities: Population and Service Use Trends in Maine, 2012 Edition and the Adults Using Long Term services and Supports: Population and Service Use Trends in

Maine, 2016 Edition prepared by the Muskie School of Public Service and the U.S. Census Bureau's website located at <https://www.census.gov/quickfacts/>

Franklin County Maine has an estimated population of 30,199 as of July 1, 2019 with approximately 22.7% of the population age 65 or older. This population is the primary consumer of nursing care services. Maine's 65 and above age group continues to grow at a rate faster than New England and the USA as a whole. The over 65 population in Maine is projected to reach 29% of the state's population by 2032. The percentage of Franklin County population over the age of 65 is projected to rise to 30.5% of the population in 2027. With the projected increase in the 65+ population it is likely that SNF/NF beds will be required over the next decade. Increasing SNF/NF beds while improving an existing facility will substantially address specific health problems associated with an aging population which is increasingly requiring more intensive care. The new facility will handle both a long-term care population and a short stay rehabilitation population. This will have a positive impact on the health status indicators of the population to be served. Short term rehabilitation is extremely effective in returning people home and avoiding a more costly long-term care alternative. In addition, private rooms can be provided for clinically complex patients. CONU examined the latest average occupancy data available for nursing services in Franklin County (June through November 2020).

<b>Town</b>	<b>Nursing Facility</b>	<b>Total Capacity</b>	<b>Total Occupancy</b>	<b>% Occupancy</b>
Farmington	Edgewood Rehab	33	25	75.7%
Farmington	Orchard Park	38	27	71.0%
Farmington	Sandy River Center	62	55	88.7%
<b>TOTAL</b>		<b>133</b>	<b>107</b>	<b>78.46%</b>

In 2010 Franklin County had 41 nursing beds per 1,000 persons age 65 and above as compared to the State average of 26 beds per 1,000 persons age 65 and above. The available beds in Franklin County is below the State average of 33 beds per 1,000 persons aged 65 and above.

The occupancy rate for nursing homes in Franklin County is extremely low and ordinarily CONU would be concerned about expanding beds in an area with such a low occupancy. However, as noted in earlier sections of this analysis discussions are taking place with other facilities in the area to convert SNF/NF beds to Residential Care beds which will reduce the impact of adding new beds at Sandy River. Based on demographic trends and the need for more skilled care CONU believes that there is an expanded need for SNF/NF care in Franklin County.

The applicant will offer the services affected by the project to all residents of the area proposed to be served and therefore will ensure accessibility of the service.

The project will provide demonstrable improvements in the outcome measures for patients that require skilled and long-term services. The demographics of this region show an increased population base that will require these services.

#### **d) Orderly and Economic Development**

This transaction involves adding 20 SNF/NF beds and removing 28 RCF beds in Franklin County. This project will allow Sandy River to focus on long term care and skilled rehab services in the area.es. This project will have minimal impact on health care expenditures in this region because increases in SNF/NF costs will be largely offset by a reduction in Residential Care expenditures. Increased skilled rehab services may result in increased utilization of Medicare revenue and may reduce MaineCare expenditures. In addition, no large capital expenditures are required for this project because existing nursing home buildings will be maintained.

As discussed in the Economic Feasibility section of this analysis this project will have a minimal impact on healthcare costs, therefore there will be little impact on State funding. This applicant has fulfilled MaineCare neutrality requirements.

Sandy River has provided necessary services in the Franklin County area for decades. This transaction will allow this facility to continue to provide long-term care and rehabilitation services with no interruption in services and no disruption to current residents. As stated previously utilizing existing infrastructure minimizes capital expenditures and start- up costs. Based on these factors it is unlikely that a more effective, more accessible or less costly alternative for providing needed SNF/NF services is available.

#### **e) Outcomes and Community Impact**

Sandy River has provided quality long-term care and rehabilitation services in the Franklin County service area for many years. Sandy River has maintained high occupancy rates despite being located in a rural area. The applicant plans to focus their efforts on long term care and skilled nursing services. This will allow increased operational efficiencies and clinical focus on providing quality nursing home care. Continuing necessary services in the current geographic area will have a positive impact on the quality of care. Changing the patient mix of this facility will allow other providers to focus on providing Residential Care Services and shift nursing home residents to Sandy River. This project will ensure high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

#### **f) Service Utilization**



The Maine Quality Forum has not adopted any principles of evidence-based medicine directly applicable to the application; therefore, this application meets the standard for this determination.

This project will increase nursing home beds in Franklin County, but this increased level of service is required to meet current and future needs in the community. No inappropriate increases in utilization will occur as a result of this project.

## **VI. CONCLUSION**

For all the reasons set forth in the Preliminary Analysis and in the record, the CONU concluded that the review standards have been satisfied. The CONU recommends the approval with conditions of the CON.

## **VII. RECOMMENDATION**

The CONU recommends that this application be Approved with conditions.